IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.15 OF 2007
IN
CRIMINAL APPEAL NO.23 OF 2007

Arun Ananda Nikam ...Applicant.

Versus

State of Maharashtra ...Respondent.

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Mr.K.S.Patil, Advocate for the Applicant.
Mr.S.R.Shinde, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 20th February, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant has been convicted under Sections 498-A & 306 of IPC and sentenced to suffer imprisonment for three years and seven years respectively. Both the sentences are directed to run concurrently. The applicant is now seeking bail.

3. The learned Advocate for the applicant has pointed out that there are two dying declarations. One dying declaration of Arati was recorded by PW-5 Police Constable Vasant Khanchnale. In the said dying declaration Arati stated that due to harassment, she set herself on fire. Whereas in the history given by Arati to PW-6 Dr.Yogin Chedda, she has stated that when she was nagged by her in-laws on 25.09.2005, she threatened them by pouring kerosene on herself. Thereafter she went to kitchen to cook food. While cooking food, her clothes which were already wet suddenly caught fire. The learned Advocate for the applicant pointed out that there is clear discrepancy in the two dying declarations and hence the conviction cannot be sustained. He has further submitted that the applicant was on bail during the trial and he has not misused the liberty granted to him. This statement is not controverted by the prosecution.

4. On perusal of the evidence, prima facie, there does appear to be inconsistency between the two dying declarations. Hence, I am inclined to

release the applicant on bail.

5. The applicant to be released on bail in the sum of Rs.25000/- with one or two sureties to make up the said amount. The applicant shall report to Miraj City Police Station once in a fortnight, till the disposal of his Appeal.

6. Application is disposed of accordingly.

(SMT.V.K.TAHILRAMANI,J.)